

Testimony of James Dworman

Senate Judiciary Committee hearing – 2015 SB 31 & 32 – February 3, 2015

Good afternoon. My name is Jim Dworman. I am a resident of West Bloomfield with a law practice in Troy.

I have been a practicing Michigan lawyer since 1987. I am an Adjunct Professor of Law at Western Michigan University Cooley Law School, where I teach sports law.

I also am a sport official. For 20 years I have officiated high school basketball. I also officiate high school football and water polo. I am registered with the Michigan High School Athletic Association. I am a member of the National Association of Sports Officials, the Metro Detroit Officials Association and the Michigan Water Polo Association.

I officiate high school sports throughout Southeast Michigan, regularly in Wayne, Oakland, Macomb and Washtenaw counties, but also in St. Clair, Lapeer, Genesee, Livingston, Ingham and Kent counties.

I am here to voice my support and that of officials throughout the state and country for legislation to make into a felony and enhance penalties for assaults and batteries upon sports officials.

It is a shame that it took the homicide of a Livonia referee during a recreational soccer game to bring this to the Committee's attention. Two years ago I attempted to raise this issue with my own state representative who sits on the House Judiciary Committee but he did not respond to my contacts.

My action then was prompted by two assaults which occurred on the same day, February 7, 2013. The first occurred at a charter school in Detroit, where following a middle school basketball game an official was slammed across the face by a water bottle swung by an angry female spectator. The official then was assaulted by a mob of angry spectators after he separated himself from his initial attacker.

Now, just so you don't think this type of assault is limited to low-income areas or immigrants who bring to this country that crazed mentality of British soccer hooligans, let me show you a video of the second assault that occurred on February 7, 2013.

This happened at Seaholm High School in Birmingham. Seaholm sits in one of Michigan's highest per capita income zip codes. This happened following a junior varsity basketball game. That's a game among 15 year old children.

What you see is an official (wearing a coat and hat) walking toward the exit doors, when he is accosted by an angry parent. The parent verbally assaults him all the way down the hall. As they near the exit, the official stops and points the angry fan back toward the gym. The fan responds with a roundhouse right to the face of the official, knocking off his glasses and dazing him for a moment. The attacker then retreats back to the gym while the official, with the help of onlookers, steadies himself and retrieves his glasses.

What did the referee do to deserve this? He made a call or two which angered a parent of a player on the WINNING team. For his efforts, the official was paid \$45, from which he paid his own travel and uniform expenses, income tax and social security withholding.

Is \$45 worth the risk of assault? We are not National Football League referees with armed security. We are people moonlighting, people from all walks of life. My football crew includes two retirees, a gravedigger and a plant manager. My regular basketball referee partners include a public school truant officer and a salesman. We are working for love of the game, for modest pay.

We should not have to work a high school, Little League or recreation department game in fear for our safety.

Now what makes an assault upon a sports official different than an assault upon any other person? Why should assaults and battery upon officials be classified as a separate, more severe crime than a misdemeanor assault and battery committed upon an ordinary citizen?

The difference is there is a national epidemic of assaults upon sports officials. Something has changed in society where too many people think it is okay to attack the referee, verbally and physically.

In just 15 minutes last week I pulled from the archives of Referee magazine, a publication dedicated to sports officiating, 23 reports of attacks upon officials that happened in the last few years.

GIVE EXAMPLES

The problem is so widespread that 21 states have enacted laws similar to the bills under consideration here today. Two other state legislatures have adopted resolutions condemning attacks upon sports officials.

I present to be placed into the record materials from the National Association of Sports Officials website, including a map entitled 2014 Sports Officials Legislative Scorecard and a compendium of state criminal and civil statutes addressing assaults upon sports officials. The map shows how widespread sports official assault legislation already is. The compendium tells you how other states have dealt firmly with this.

Even after hearing testimony and reading these materials, you still may ask, how will this legislation protect sports officials? We already have laws against murder and manslaughter, but people in fits of rage still commit the crimes. We already have laws against assault and battery, people know it is against the law, but those crimes continue to occur.

What we need to do is change the mindset of the public. Prosecutors need to take these crimes more seriously. For the assault you witnessed in the Seaholm video, the Birmingham police department sought misdemeanor charges against the attacker but the city attorney chose to drop the case before trial. The city attorney didn't take the matter seriously.

If you make this crime a felony, you tell people around the state that assaults upon officials are serious matters, and a county prosecutor pursues the case.

We need to educate the public. These bills, if they become law, will help return youth, school and community sports to the proper perspective. Perhaps the law will make people think about the role of the referee or umpire. The law may cause more level-headed players, coaches and spectators to intervene before situations boil over. Would-be attackers may think twice before acting out their anger.

The law will teach people that violence and rage are not appropriate responses when your son or daughter is called out on strikes. Civility and sportsmanship must rule the day.

I also have emails from Harold Bettie, a Detroit basketball official, Matthew Riley, a Waterford baseball umpire, and Timothy Stopczynski, a Charlotte football official, describing confrontations and expressing support for the bills. I ask that these be placed into the record.

Now that I've addressed you as a sports official, let me change hats and talk to you as a lawyer and law professor.

I have several concerns about Bill 31 as written.

First, I would limit the crime to those who actually assault, batter or assault and batter an official directly. I would eliminate any reference to those who "solicit or encourage" another to commit the crime. I also would eliminate any criminalization of speech through social media.

I personally am not aware of anyone soliciting attacks upon officials. Most people who shout "Kill the ump" don't mean to be taken literally; they are just venting.

Beyond First Amendment concerns regarding Facebook or Twitter posts, most sports officials are used to hecklers and booing.

We referees are concerned with the “sticks and stones that may break our bones”, not name calling. When we make a bad call, we expect to hear about it.

What we don’t want is what you saw in the video, some enraged idiot chasing us down a hallway, getting in our face, provoking a confrontation, taking a swing at us. Or worse.

My second concern is limiting the crime to assaults and batteries which occur “at a sporting event”. Many assaults occur after sporting events, like what you saw in the video. Some angry spectator is waiting for the referee in the hallway or parking lot following the game. That’s happened to me several times, fortunately, with just angry words.

I’d especially want to be covered by the legislation an assault committed by someone who looks up the address of a referee online or in the phone book, then stalks the official before committing an assault. I would broaden the crime’s definition to include any assault committed “because of the victim’s status as a sports official.”

Finally, I’d like the record to make clear that Section (3)(B) is intended to broadly define a sports official. Sports officials go by many different names. In football alone, you have a referee, an umpire, a line judge, a head linesman, a side judge, a back judge, a field judge, and a timer. In other sports there are scorers, goal judges and linesmen. I don’t expect the statute to name them all. Just make the record clear the definition should be broadly construed.

You may find the compendium of state laws helpful in editing Bill 31. I find Alabama’s and North Carolina’s definitions of “sports official” and “sports event” to be quite good in their breadth and clarity. You may consider adopting similar language to replace Section 3 of Bill 31.

North Carolina also criminalizes assaults and assaults and batteries which occur immediately following a sport event, which I believe is necessary to achieve the desired result.

If anyone on the Committee has any questions, I’d be happy to respond. Otherwise, thank you for your consideration.

